Bergey, et al v. Boy Scouts of Amer Doc. 29

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

06 MAY 12 PM 3:08

CLERK-ALBUQUERQUE

LINDA BERGEY and JAMES R. BERGEY, SR.,

Plaintiffs,

vs. No. CIV-05-0536 MCA/WPL

BOY SCOUTS OF AMERICA
d/b/a PHILMONT SCOUT RANCH BSA,

Defendant.

MOTION FOR SUMMARY JUDGMENT

COMES NOW the Defendant, Boy Scouts of America, d/b/a Philmont Scout Ranch BSA ("Philmont"), and pursuant to Fed.R.Civ.P. 56, moves the Court for an Order granting summary judgment and dismissing all claims against it. As grounds for its Motion, Philmont states that there are no genuine issues of material fact. Plaintiff, Linda Bergey, was injured as a result of equine behavior while engaged in an equine activity. Therefore, under the New Mexico Equine Liability Act,, NMSA 1978, §§ 42-13-1, *et seq.*, Philmont is immune from suit for the injuries sustained by Linda Bergey. As a matter of law, summary judgment should be granted dismissing all claims against Philmont based on the provisions of the Equine Liability Act.

WHEREFORE the Defendant, Boy Scouts of America, d/b/a Philmont Scout Ranch BSA would respectfully request the Court grant summary judgment and dismiss all claims against it with prejudice.

Dockets.Justia.com

Respectfully submitted,

BUTT THORNTON & BAEHR PC

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I hereby certify a true copy of the foregoing pleading was mailed to all counsel of record this 12th day of May, 2006.

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